

S/N 10/731,899



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Brian Jones et al.	Examiner:	Unassigned
Serial No.:	10/731,899	Group Art Unit:	2124
Filed:	December 9, 2003	Docket No.:	60001.0182US11/MS303914.1
Title:	Mechanism for Downloading Software Components from a Remote Source for Use by a Local Software Application		

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 18, 2006.

By 

Name: Merri D. Brami

APPLICANTS' STATEMENT REGARDING A NON-PUBLIC USE

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This statement is presented by Applicants to disclose events related to a non-public use of implementations described in the Application for Letters Patent, US Application 10/731,899 , hereinafter "the Application."

At least some of the features disclosed in the Application may have been included in a beta release of Office, which occurred in October 2002. Therefore, it is possible some of the system code incorporating the described implementations was disclosed to a controlled set of users more than one year from the filing date of the Application. This beta release of Office, which was conducted for testing purposes, included approximately five thousand users. It is significant to note that the beta was distributed to a fixed number of users, and each user acknowledged our non-disclosure agreement. The non-disclosure agreement included the following clause:

7. CONFIDENTIALITY. The Product, including its existence and features, and related information are proprietary and confidential information to Microsoft and its suppliers. Recipient agrees not to disclose or provide the Product, documentation, or any related information (including the Product features or the results of use or testing) to any third party, prior to commercial release of the Product. However, Recipient may disclose confidential information in accordance with judicial or other governmental order, provided Recipient shall give Microsoft reasonable written notice prior to such disclosure and shall comply with any applicable protective order or equivalent. Further, Recipient shall not be liable to Microsoft for disclosure of information which Recipient can prove (a) is already known to Recipient without an obligation to maintain the same as confidential; (b) becomes publicly known through no wrongful act of Recipient; (c) is rightfully received from a third party without breach of an obligation of confidentiality owed to Microsoft; or (d) is independently developed by Recipient. The obligations of this Section 7 are in addition to the terms of any confidentiality or non-disclosure agreement that may exist between Microsoft and Recipient.

Since the beta was distributed to a fixed number of users that acknowledged the above confidentiality clause, Applicants believe submission of the claims in the Application is proper.


Respectfully submitted,

MERCHANT & GOULD P.C.

P.O. Box 2903
Minneapolis, MN 55402-0903
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Date: April 18, 2006

DKS:mdb



D. Kent Stier
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

INW

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Confirmation No.: 4706 Notice of Allow. Date: n/a
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By: 
Name: Merri D. Brami

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

27488

PATENT TRADEMARK OFFICE


Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Applicants' Statement Regarding a Non-Public Use
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

Merchant & Gould LLC
P.O. Box 2903
Minneapolis, MN 55402-0903
404.954.5100

By: 
Name: D. Kent Stier
Reg. No.: 50,640
DKS:mdb